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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Janna Harris, an Arizona resident;

Plaintiff,

v.

Horizon Group Homes, LLC, an
Arizona company; **Stephen Foster**, an
Arizona resident; and **Gabriella Foster**,
an Arizona resident;

Defendants.

Case No.

VERIFIED COMPLAINT

(Jury Trial Requested)

Plaintiff Janna Harris (“**Plaintiff**”), for her Verified Complaint against Defendants
Horizon Group Homes, LLC (“**Horizon**”); Stephen Foster; and Gabriella Foster
 (“**Defendants**”), hereby alleges as follows:

NATURE OF THE CASE

1. Plaintiff brings this action against Defendants for their unlawful failure to
pay overtime in violation of the Fair Labor Standards Act, 29 U.S.C. §§ 201-219
(hereinafter “**FLSA**”).

2. This action is also brought to recover overtime compensation, liquidated or

double damages, and statutory penalties resulting from Defendants' violations of the FLSA.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter and the parties hereto pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

4. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) because all or a substantial part of the acts or omissions giving rise to the claims occurred in the state of Arizona.

5. Plaintiff was employed by Defendants in this District.

PARTIES

6. At all relevant times to the matters alleged herein, Plaintiff Janna Harris resided in the District of Arizona.

7. At all relevant times to the matters alleged herein, Plaintiff Janna Harris was a full-time employee of Defendants from on or around December 12, 2020, until on or around November 11, 2021 ("**all relevant times**").

8. At all relevant times to the matters alleged herein, Plaintiff Janna Harris was an employee of Defendants as defined by 29 U.S.C. § 203(e)(1).

9. At all relevant times to the matters alleged herein, Plaintiff Janna Harris was a non-exempt employee.

10. Defendant Horizon is a company authorized to do business in Arizona.

11. Defendant Horizon was Plaintiff's employer as defined by 29 U.S.C. § 203(d).

12. Defendant Stephen Foster is an Arizona resident.

1 13. Defendant Stephen Foster has directly caused events to take place giving rise
2 to this action.

3 14. At all relevant times, Defendant Stephen Foster was a member of Horizon.

4 15. At all relevant times, Defendant Stephen Foster was an owner of Horizon.

5 16. At all relevant times, Defendant Stephen Foster was an employer of Horizon.

6 17. Defendant Stephen Foster has been at all relevant times Plaintiff's employer
7 as defined by 29 U.S.C. § 203(d).

8 18. Defendant Stephen Foster had the authority to hire and fire employees.

9 19. Defendant Stephen Foster had the authority to hire and fire Plaintiff.

10 20. On or around December 12, 2020, Defendant Stephen Foster interviewed and
11 hired Plaintiff.

12 21. Defendant Stephen Foster supervised and controlled Plaintiff's work
13 schedules or the conditions of Plaintiff's employment.

14 22. Defendant Stephen Foster would email work schedules to employees.

15 23. Defendant Stephen Foster determined the rate and method of Plaintiff's
16 payment of wages.

17 24. On December 12, 2020, Defendant Stephen Foster sent Plaintiff an email
18 stating "This position is an Independent Contractor position, therefore no taxes will be
19 withheld from your paycheck."

20 25. As a person who acted in the interest of the previously identified corporate
21 entity in relation to the company's employees, Defendant Stephen Foster is subject to
22 individual and personal liability under the FLSA.

23 26. Defendant Gabriella Foster is an Arizona resident.

1 27. Defendant Gabriella Foster has directly caused events to take place giving
2 rise to this action.

3 28. At all relevant times, Defendant Gabriella Foster was a member of Horizon.

4 29. At all relevant times, Defendant Gabriella Foster was an owner of Horizon.

5 30. At all relevant times, Defendant Gabriella Foster was a manager of Horizon.

6 31. At all relevant times, Defendant Gabriella Foster was an employer of
7 Horizon.

8 32. Defendant Gabriella Foster has been at all relevant times Plaintiff's employer
9 as defined by 29 U.S.C. § 203(d).

10 33. Defendant Gabriella Foster had the authority to hire and fire employees.

11 34. Defendant Gabriella Foster had the authority to hire and fire Plaintiff.

12 35. On or around December 12, 2020, Defendant Gabriella Foster interviewed
13 and hired Plaintiff.

14 36. On or around November 11, 2021, Defendant Gabriella Foster fired Plaintiff.

15 37. Defendant Gabriella Foster supervised and controlled Plaintiff's work
16 schedules or the conditions of Plaintiff's employment.

17 38. Defendant Gabriella Foster would give Plaintiff tasks that had to be
18 completed every day.

19 39. Defendant Gabriella Foster determined the rate and method of Plaintiff's
20 payment of wages.

21 40. Defendant Gabriella Foster gave Plaintiff raises.

22 41. As a person who acted in the interest of the previously identified corporate
23 entity in relation to the company's employees, Defendant Gabriella Foster is subject to
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1 individual and personal liability under the FLSA.

2 42. Upon reasonable belief, during Plaintiff's employment with Defendants,
3 Defendant Gabriella Foster and Defendant Stephen Foster were legally married.
4

5 43. Defendant Gabriella Foster and Defendant Stephen Foster have caused
6 events to take place giving rise to this action as to which their marital community is fully
7 liable.
8

9 44. Under the principle of marital community property, all actions by one
10 individual are imputed on the marital community property.

11 45. Plaintiff is further informed, believes, and thereon alleges that each of the
12 Defendants herein gave consent to, ratified, and authorized the acts of all other Defendants,
13 as alleged herein.
14

15 46. Defendants, and each of them, are sued in both their individual and corporate
16 capacities.
17

18 47. Defendants are jointly and severally liable for the injuries and damages
19 sustained by Plaintiff.

20 48. Upon reasonable belief, Plaintiff, in her work for Defendants, was employed
21 by an enterprise engaged in commerce that had annual gross sales of at least \$500,000 in
22 2020.
23

24 49. Upon reasonable belief, Plaintiff, in her work for Defendants, was employed
25 by an enterprise engaged in commerce that had annual gross sales of at least \$500,000 in
26 2021.
27

28 50. At all relevant times, Plaintiff, in her work for Defendants, was engaged in
commerce or the production of goods for commerce.

1 51. At all relevant times, Plaintiff, in her work for Defendants, was engaged in
2 interstate commerce.

3 52. Plaintiff, in her work for Defendants, regularly handled goods produced and
4 transported in interstate commerce.
5

6 53. Plaintiff used email and telephone for communication.

7 54. Plaintiff is a covered employee under individual coverage.

8 55. Plaintiff is a covered employee under enterprise coverage.
9

10 **FACTUAL ALLEGATIONS**

11 56. The entity Defendant is rehabilitation center.

12 57. On or around December 12, 2020, Plaintiff Janna Harris commenced
13 employment with Defendants as a behavioral health technician.
14

15 58. Plaintiff's primary job duties included running groups, meal prep, cleaning,
16 supervising outings and helping patients find jobs.

17 59. Plaintiff did not have the authority to hire and/or fire employees.

18 60. At any given time, Plaintiff did not manage two or more employees.

19 61. Plaintiff did not exercise discretion and independent judgment with respect
20 to matters of significance.
21

22 62. From her hire, until March 2021, Plaintiff was paid at a rate of \$12.50 an
23 hour.
24

25 63. Beginning in March 2021, until on or around June 2021, Plaintiff was paid
26 at a rate of \$12.75.

27 64. Beginning June 2021, until on or around November 11, 2021, Plaintiff was
28 paid at a rate of \$14.50 an hour.

1 65. Plaintiff Janna Harris routinely worked in excess of 40 hours per week.

2 66. Plaintiff Janna Harris was not provided with the required one and one-half
3 times pay premium as required by the FLSA for all her worked overtime hours.

4
5 67. Plaintiff estimates that she is owed approximately 618.75 hours of overtime
6 pay.

7 68. For example, during the workweek of August 23, 2021, Plaintiff worked
8 approximately 32 hours of overtime.

9
10 69. Plaintiff was only paid straight time for all overtime hours worked.

11 70. Plaintiff was misclassified as an independent contractor.

12 71. Defendants had total control of Plaintiff in all aspects of her job.

13 72. Defendants had certain rules that Plaintiff must follow.

14 73. Plaintiff did not have an opportunity for profit or loss based on her work for
15 Defendants.

16
17 74. Plaintiff did not invest in equipment or materials in her work for Defendants.

18 75. Plaintiff did not employ any helpers in her work for Defendants.

19 76. Plaintiff's work for Defendants did not require a special skill.

20 77. At all relevant times during Plaintiff's employment, Defendants failed to
21 properly compensate Plaintiff for all her overtime hours.

22
23 78. Defendants were aware that Plaintiff's working hours routinely exceeded 40
24 hours.

25
26 79. Defendants required Plaintiff to work overtime as a condition of her
27 employment.

28 80. Defendants wrongfully withheld wages from Plaintiff by failing to pay all

1 wages due for overtime hours Plaintiff worked.

2 81. Defendants refused and/or failed to properly disclose or apprise Plaintiff of
3 her rights under the FLSA.

4 82. Defendants have not kept proper records in violation of 29 C.F.R. § 516.2.

5 83. Defendants failed to post and keep posted in a conspicuous place the required
6 poster / notice explaining employee rights under the FLSA pursuant to 29 C.F.R. § 516.4.

7 84. Defendants' failure and/or refusal to compensate Plaintiff at the rates and
8 amounts required by the FLSA were willful.

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11 **COUNT I**
12 **(FAILURE TO PAY OVERTIME WAGES – FLSA – 29 U.S.C. § 207)**

13 85. Plaintiff incorporates by reference all of the above allegations as though fully
14 set forth herein.

15 86. At all relevant times, Plaintiff was employed by Defendants within the
16 meaning of the FLSA.

17 87. Plaintiff is an employee entitled to the statutorily mandated overtime wages.

18 88. Defendants have intentionally failed and/or refused to pay Plaintiff's
19 overtime wages according to the provisions of the FLSA.

20 89. As a direct result of Defendants' violations of the FLSA, Plaintiff has
21 suffered damages by not receiving compensation in accordance with 29 U.S.C. § 207.

22 90. In addition to the amount of unpaid overtime wages owed to Plaintiff, she is
23 entitled to recover an additional equal amount as liquidated damages pursuant to 29 U.S.C.
24 § 216(b).

25 91. Defendants' actions in failing to compensate Plaintiff, in violation of the
26 FLSA, were willful.
27
28

1 92. Defendants knew Plaintiff was not being compensated overtime for time
2 worked in excess of 40 hours in a given workweek and failed to pay proper overtime wages.

3 93. Defendants knew their failure to pay overtime wages was a violation of the
4 FLSA.
5

6 94. Defendants have not made a good faith effort to comply with the FLSA.

7 95. Plaintiff is also entitled to an award of attorneys' fees, costs, and other
8 statutory damages pursuant to 29 U.S.C. § 216(b).
9

10 **CONCLUSION AND PRAYER FOR RELIEF**

11 **WHEREFORE**, Plaintiff prays:

12 A. For the Court to declare and find that the Defendants committed the
13 following acts:

14 i. violated overtime wage provisions of the FLSA, 29 U.S.C. § 207, by
15 failing to pay overtime;

16 ii. willfully violated overtime wage provisions of the FLSA, 29 U.S.C. §
17 207, by failing to pay overtime;

18 B. For the Court to award compensatory damages, including liquidated damages
19 pursuant to 29 U.S.C. § 216(b), to be determined at trial;

20 C. For the Court to award interest on all wage compensation due accruing from
21 the date such amounts were due under all causes of action set forth herein;

22 D. For the Court to award such other monetary, injunctive, equitable, and
23 declaratory relief as the Court deems just and proper;

24 E. For the Court to award Plaintiff reasonable attorneys' fees and costs pursuant
25 to 29 U.S.C. § 216(b), and all other causes of action set forth herein;
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1 F. Any other remedies or judgments deemed just and equitable by this Court.

2 **JURY DEMAND**

3 Plaintiff hereby demands a trial by jury of all issues so triable.

4
5
6 RESPECTFULLY SUBMITTED December 10, 2021.

7 **ZOLDAN LAW GROUP, PLLC**

8
9 By: /s/ Jason Barrat

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11 Phoenix, AZ 85018

12 Attorneys for Plaintiff

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VERIFICATION

Plaintiff Janna Harris declares under penalty of perjury that she has read the foregoing Verified Complaint and is familiar with the contents thereof. The matters asserted therein are true and based on her personal knowledge, except as to those matters stated upon information and belief, and as to those matters, she believes them to be true.



Janna Harris